

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI  
SOUTHERN DIVISION**

**ONLY AL-KHIDHR**

**PLAINTIFF**

**V.**

**CIVIL ACTION NO. 1:07CV1223LG-RHW**

**HARRISON COUNTY, MISSISSIPPI BY AND  
THROUGH ITS BOARD OF SUPERVISORS;  
HARRISON COUNTY SHERIFF GEORGE PAYNE;  
WAYNE PAYNE; DIANE GATSON RILEY;  
STEVE CAMPBELL; RICK GATSON; RYAN TEEL;  
MORGAN THOMPSON, JOHN DOES 1-4,  
AMERICAN CORRECTIONAL ASSOCIATION,  
JAMES A. GONDLES, JR., UNKNOWN DEFENDANTS  
1-3 EMPLOYEES OF AMERICAN CORRECTIONAL  
ASSOCIATION; HEALTH ASSURANCE LLC;  
UNKNOWN DEFENDANTS 1-2 EMPLOYEES OF  
HEALTH ASSURANCE, LLC**

**DEFENDANTS**

**MOTION TO COMPEL PLAINTIFF'S COMPLIANCE WITH COURT ORDER**

COMES NOW Defendant, George H. Payne, Jr., in his official capacity, by and through his attorneys, Dukes, Dukes, Keating & Faneca, P.A., and pursuant to the Federal Rules of Civil Procedure, files this Motion to Compel Plaintiff's Compliance with Court Order granting Defendant's Motion to Compel [DN163], and would show unto the Court the following, to-wit:

**I.**

Defendant Sheriff George H. Payne, Jr. filed his Motion to Compel [DN163] on September 2, 2009, requesting this Court to enter an Order compelling the Plaintiff to respond to discovery as propounded to him by the Defendant. This Court granted Defendant's Motion to Compel and entered an Order on September 21, 2009, requiring the Plaintiff to serve complete discovery responses to Defendant on or before October 5,

2009. On September 18, 2009, Plaintiff supplied signed Interrogatory responses but many of the responses stated “will supplement”. See Interrogatory Responses attached hereto as **Exhibit “A”**. Therefore, Plaintiff has failed to comply with this Court’s Order. Additionally, to date, Plaintiff has still failed to respond to Defendant’s Request for Production of Documents and to supply newly executed medical waivers. Defendant hereby adopts and incorporates as though copied fully in words and phrases all of the contents, facts, and Exhibits in Defendant’s Motion to Compel [DN163].

## II.

The undersigned has corresponded with Plaintiff’s counsel on numerous occasions in an attempt to resolve this discovery dispute before seeking Court intervention. However, Defendant Payne has still been unsuccessful in obtaining these complete discovery responses from Plaintiff. See correspondences Attached hereto as **Exhibit “B”**.

## III.

Pursuant to Local Rule 37.1, Defendant’s counsel sent Plaintiff’s counsel a Good Faith Certificate to be executed; however, the Good Faith Certificate was not returned executed. Accordingly, pursuant to Local Rule 37.1, attached is an affidavit by Defendant’s counsel in lieu of the executed Good Faith Certificate. See **Exhibit “C”**.

WHEREFORE, PREMISES CONSIDERED, the Defendant files his Motion to Compel and respectfully request that this Court enter an Order compelling the Plaintiff to respond to discovery as propounded to him by the Defendant, and further relief that this Honorable Court deems necessary.

RESPECTFULLY SUBMITTED, this the 12<sup>th</sup> day of October, 2009.

SHERIFF GEORGE PAYNE, JR., Defendant

BY: DUKES, DUKES, KEATING & FANECA, P.A.

BY: S/Cy Faneca  
Cy Faneca

CY FANECA, MSB#5128  
HALEY N. BROOM, MSB #101838  
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DUKES, DUKES, KEATING & FANECA, P. A.  
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Gulfport, MS 39502  
Telephone: (228) 868-1111  
Facsimile: (228) 863-2886

**CERTIFICATE OF SERVICE**

I, CY FANECA, do hereby certify that I have this day electronically filed the foregoing with the Clerk of the Court using the ECF system which sent notification of such filing to the following:

Alvin Chase, Esq.  
Chase, Chase & Associates, PLLC  
10345 D'Iberville Blvd, Ste. D  
D'Iberville, MS 39540

Karen J. Young  
Meadows Law Firm  
P.O. Box 1076  
Gulfport, MS 39502

James L. Davis  
Ian A. Brendel  
P.O. Box 1521  
Gulfport, MS 39502

This, the 12<sup>th</sup> day of October, 2009.

S/Cy Faneca  
CY FANECA

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